

**§ 301.89-6 Issuance of a certificate or limited permit.**

(a) An inspector<sup>2</sup> or person operating under a compliance agreement will issue a certificate for the movement of a regulated article outside a regulated area if he or she determines that the regulated article:

(1) Is eligible for unrestricted movement under all other applicable Federal domestic plant quarantines and regulations;

(2) Is to be moved in compliance with any conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>3</sup> to prevent the artificial spread of Karnal bunt; and

(3)(i) Is free of Karnal bunt infestation, based on laboratory results of testing, and history of previous infestation;

(ii) Has been grown, produced, manufactured, stored, or handled in a manner that would prevent infestation or destroy all life stages of Karnal bunt; or

(iii) Has been treated in accordance with methods and procedures prescribed in § 301.89-13.

(b) To be eligible for movement under a certificate, grain from a field within a regulated area must be tested prior to its movement from the field or before it is commingled with other grains and must be found free from bunted kernels. If bunted kernels are found, the grain will be eligible for movement only under a limited permit issued in accordance with paragraph (c) of this section. No wheat, durum wheat, or triticale moved out of a regulated area under a certificate may be used for planting outside the regulated area.

<sup>2</sup>Inspectors are assigned to local offices of APHIS, which are listed in local telephone directories. Information concerning such local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236, or from Karnal Bunt Project, 3658 E. Chipman Rd. Phoenix, Arizona 85040.

<sup>3</sup>An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 431 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(c) An inspector or a person operating under a compliance agreement will issue a limited permit for the movement within or outside the regulated area of a regulated article not eligible for a certificate if the inspector determines that the regulated article:

(1) Is to be moved to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit and/or compliance agreement), and this movement will not result in the artificial spread of Karnal bunt because Karnal bunt will be destroyed or the risk mitigated by the specified handling, utilization, or processing;

(2) Is to be moved in compliance with any additional conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the artificial spread of Karnal bunt; and

(3) Is eligible for movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(d) An inspector shall issue blank certificates and limited permits to a person operating under a compliance agreement in accordance with § 301.89-7 or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the movement of regulated articles that have met the applicable requirements of paragraphs (a) and (b) of this section for the issuance of certificates or of paragraph (c) of this section for the issuance of limited permits.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23627, May 1, 1997; 63 FR 50751, Sept. 23, 1998; 64 FR 23754, May 4, 1999; 66 FR 21053, Apr. 27, 2001; 67 FR 21161, Apr. 30, 2002]

**§ 301.89-7 Compliance agreements.**

Persons who grow, handle, or move regulated articles may enter into a

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compliance agreement<sup>4</sup> if such persons review with an inspector each provision of the compliance agreement, have facilities and equipment to carry out disinfection procedures or application of chemical materials in accordance with § 301.89-13, and meet applicable State training and certification standards under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136b). Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23628, May 1, 1997]

### **§ 301.89-8 Cancellation of a certificate, limited permit, or compliance agreement.**

Any certificate, limited permit, or compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the holder of the certificate or limited permit, or the person who has entered into the compliance agreement, has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances allow, but within 20 days after oral notification of the cancellation. Any person whose certificate, limited permit, or compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be

<sup>4</sup>Compliance agreements may be initiated by contacting a local office of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices of Plant Protection and Quarantine may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236, or from the Karnal Bunt Project, 3658 E. Chipman Rd., Phoenix, Arizona 85040.

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held to resolve any conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

### **§ 301.89-9 Assembly and inspection of regulated articles.**

(a) Persons requiring certification or other services must request the services of an inspector<sup>5</sup> at least 24 hours before the services are needed.

(b) The regulated articles must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23628, May 1, 1997; 64 FR 29550, June 2, 1999]

### **§ 301.89-10 Attachment and disposition of certificates and limited permits.**

(a) The consignor must ensure that the certificate or limited permit authorizing movement of a regulated article is, at all times during movement, attached to:

(1) The outside of the container encasing the regulated article;

(2) The article itself, if it is not in a container; or

(3) The consignee's copy of the accompanying waybill: Provided, that the descriptions of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing movement of a regulated article to the consignee at the shipment's destination.

### **§ 301.89-11 Costs and charges.**

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services.

The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

### **§ 301.89-12 Cleaning and disinfection.**

(a) Mechanized harvesting equipment that has been used to harvest host

<sup>5</sup>See footnote 2.